



Proposed Regulation Agency Background Document

Approving authority name	State Air Pollution Control Board
Primary action	9 VAC 5-20-206
Secondary action(s)	9 VAC 5-40, Articles 36, 37, 42, 48, 49, 50 and 53
Regulation title	Regulations for the Control and Abatement of Air Pollution
Action title	VOC and NO _x Emission Control Areas (Rev. D04)
Document preparation date	September 22, 2005

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary of the proposed new regulation, proposed substantive amendments to the existing regulation, or the regulation proposed to be repealed. If applicable, generally describe the existing regulation.

Currently, Chapter 40 of the Regulations for the Control and Abatement of Air Pollution contains a number of rules used to enforce control measures designed to attain and maintain the ozone air quality standard. The geographic applicability of these rules is defined by establishing VOC and NO_x emissions control areas (in a list located in 9 VAC 5-20-206 of Chapter 20).

These rules are being expanded into the new 8-hour ozone nonattainment areas. Accordingly, 9 VAC 5-20-206 is being amended to establish new Fredericksburg NO_x and VOC Emissions Control Areas and to expand the Richmond and Hampton Roads VOC and NO_x Emissions Control Areas to include those counties and cities in the corresponding new 8-hour ozone nonattainment areas that were not previously listed in 9 VAC 5-20-206.

Most of these Chapter 40 rules contain, in the applicability section, the following statement: "The provisions of this article apply to sources of volatile organic compounds in volatile organic compound emissions control areas designated in 9 VAC 5-20-206." Therefore the provisions of these rules will automatically apply within all of the new VOC emissions control areas.

Some Chapter 40 rules (specifically, Articles 4, 36, 37 and 53) have provisions that apply only to certain existing VOC and NO_x emissions control areas. Each of these rules are being amended individually in order to manage the extension of applicability of these provisions to the additional VOC and NO_x emission control

areas with coherence and consistency. Article 4 is being amended to ensure that VOC RACT is not required from large VOC sources in the new areas within the expanded Richmond VOC Emissions Control Area. Article 36 (Packaging and Publishing Rotogravure Printing, and Flexographic Printing) is being amended to add appropriate exemptions for small facilities in those VOC emissions control areas that currently have no such exemptions. Article 37 (Storage or Transfer of Petroleum Liquids) is being amended to remove applicability redundancies resulting from this change and a previous amendment that added the Western VOC Emissions Control Area. Article 53 (Lithographic Printing) is being amended to apply in all VOC emissions control areas instead of just in the Northern Virginia and Richmond VOC Emissions Control Areas. Article 53 is also being amended to provide appropriate exemptions for small facilities in the newly applicable VOC emissions control areas.

Other Chapter 40 regulations were originally adopted to apply only within the Northern Virginia VOC Emissions Control Area. Most of these rules will be expanded to apply in the Richmond and Fredericksburg 8-hour ozone nonattainment areas. Accordingly, the following Chapter 40 regulations are being amended to apply within the Richmond and Fredericksburg VOC Emissions Control Areas in addition to the Northern Virginia VOC Emissions Control Area: Article 42 (Portable Fuel Containers), Article 48 (Mobile Equipment Repair and Refinishing), Article 49 (Architectural and Industrial Maintenance Coatings), and Article 50 (Consumer Products).

For most of the facilities that will be subject to new or more stringent VOC emission standards as a result of this amendment, compliance is automatically required by 9 VAC 5-40-20 to be achieved either within 90 days or one year after the effective date of the amendment, depending on whether or not the source is required to make certain physical or process changes to the facility to comply. For affected facilities that will be subject to new or more stringent VOC emission standards under Article 53, compliance will be required no later than one year after the effective date of the amendment. Persons affected by the extension of the provisions of Articles 42, 48, 49 and 50 to the Richmond and Fredericksburg VOC Emission Control Areas must comply by January 1, 2008.

Legal basis

Please identify the section number and provide a brief statement relating the content of the statutory authority to the specific regulation proposed. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation.

Section 10.1-1308 of the Virginia Air Pollution Control Law (Title 10.1, Chapter 13 of the Code of Virginia) authorizes the State Air Pollution Control Board to promulgate regulations abating, controlling and prohibiting air pollution in order to protect public health and welfare. Written assurance from the Office of the Attorney General that the State Air Pollution Control Board possesses the statutory authority to promulgate the proposed regulation amendments is available upon request.

Purpose

Please provide a statement explaining the rationale or justification of the proposed regulation as it relates to the health, safety or welfare of citizens.

The purpose of 9 VAC 5-20-206 is to list those areas in which additional emission standards are applicable in order to attain and maintain air quality standards that are designed for the protection of public health and welfare.

The purpose of the VOC emissions standards is to limit emissions of air pollution that contribute to ambient air concentrations of ground-level ozone to the level necessary for (i) the protection of public health and welfare, and (ii) the attainment and maintenance of the air quality standards.

These amendments are being made to modify the VOC and NO_x emission control areas so that they include all of the areas that have been designated as nonattainment, thereby extending to those areas the benefit of those VOC emission standards that are designed to limit ground-level ozone formation, thereby better protecting the public health and welfare in those areas.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.)

1. The VOC and NO_x emissions control areas designated in 9 VAC 5-20-206 are being amended so that those regulations that are used to enforce control measures designed to attain the ozone air quality standard are implemented within the new ozone nonattainment areas. A new Fredericksburg VOC and NO_x Emissions Control Area is being created that consists of the County of Spotsylvania and the City of Fredericksburg. The Richmond VOC and NO_x Emissions Control Areas are being expanded to include the County of Prince George and the City of Petersburg. The Hampton Roads VOC and NO_x Emissions Control Areas are being expanded to include the counties of Gloucester and Isle of Wight.

2. Many of the Chapter 40 VOC emission standards will be extended into the new 8-hour nonattainment areas automatically when the VOC emissions control areas in 9 VAC 5-20-206 are amended. For new

affected facilities subject to these rules, compliance with the VOC emission standards is automatically required by 9 VAC 5-40-20 to be achieved no later than 90 days after the effective date of the amendment except for sources that require certain physical or process changes to comply, in which case compliance is required no later than one year after the effective date of the amendment. These automatically extended rules include:

- Article 5 Synthesized Pharmaceutical Products Manufacturing Operations
- Article 6 Rubber Tire Manufacturing Operations
- Article 11 Petroleum Refinery Operations
- Article 24 Solvent Metal Cleaning Operations Using Non-Halogenated Solvents
- Article 25 Volatile Organic Compound Storage and Transfer Operations
- Article 26 Large Appliance Coating Application Systems
- Article 27 Magnet Wire Coating Application Systems
- Article 28 Automobile and Light Duty Truck Coating Application Systems
- Article 29 Can Coating Application Systems
- Article 30 Metal Coil Coating Application Systems
- Article 31 Paper and Fabric Coating Application Systems
- Article 32 Vinyl Coating Application Systems
- Article 33 Metal Furniture Coating Application Systems
- Article 34 Miscellaneous Metal Parts and Products Coating Application Systems
- Article 35 Flatwood Paneling Coating Application Systems
- Article 37 Petroleum Liquid Storage and Transfer Operations
- Article 39 Asphalt Paving Operations

3. Other Chapter 40 regulations are being amended to apply (or not apply) within the appropriate VOC emissions control areas:

Chapter 40, Article 4 is being amended to ensure that VOC RACT is not automatically required of all large VOC sources in the new areas that were included in Richmond VOC Emissions Control Area to make it correspond with the expanded Richmond (marginal) 8-hour Ozone Nonattainment Area.

Chapter 40, Article 36 is being amended to provide exemptions for small publication and packaging printing rotogravure, and flexographic printing operations with a potential to emit less than 100 tons of VOC per year within all VOC emissions control areas other than the Northern Virginia VOC Emissions Control Area instead of just in the Richmond and Hampton Roads VOC Emissions Control Areas.

Chapter 40, Article 42 (Portable Fuel Containers), Article 48 (Mobile Equipment Repair and Refinishing), Article 49 (Architectural and Industrial Maintenance Coatings), and Article 50 (Consumer Products) are being amended so that the provisions also apply in the Richmond VOC Emissions Control Area and in the new Fredericksburg VOC Emissions Control Area instead of just in the Northern Virginia VOC Emissions Control Area.

Chapter 40, Article 53 is being amended to apply to lithographic printing operations in all VOC emissions control areas instead of just in the Northern Virginia and Richmond VOC Emissions Control Areas. The regulation is also being amended to provide exemptions for small facilities with a potential to emit less than 100 tons of VOC per year in the newly applicable VOC emissions control areas (i.e. the Hampton Roads, Western and Fredericksburg VOC Emissions Control Areas).

The 90-day/one-year compliance schedule of 9 VAC 5-40-20 also applies to new affected facilities that are being made subject to VOC emission standards under Articles 36. Persons affected by the extension of the provisions of Articles 42, 48, 49, and 50 to the Richmond and Fredericksburg VOC Emission Control Areas must comply by January 1, 2008. Compliance for affected facilities now subject to VOC emission standards under Article 53 will be required no later than one year after the effective date of the amendment.

Issues

Please identify the issues associated with the proposed regulatory action, including: (1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; (2) the primary advantages and disadvantages to the agency or the Commonwealth; and (3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.

1. Public: The primary advantage to the public is that the adoption of these regulations will significantly decrease emissions of VOCs and the resultant formation of ground-level ozone within the new 8-hour ozone nonattainment areas, thus benefiting public health and welfare. The regulated community may suffer some adverse financial impact as a result of these amendments. There may be some facilities that will have to install or upgrade emissions control equipment. Some gas stations will have to install and test vapor recovery systems. There will be some additional emission control requirements and increased costs associated with the manufacture and distribution of compliant coatings and consumer products. These increased costs may be passed on to the public in the form of price increases.

2. Department: The department will benefit from a better understanding of air emissions from these areas, and will benefit from more accurate long- and short-term air quality planning though the state overall. There is a disadvantage to the department in that more sources will have to be inspected for noncompliant products, resulting in an increased workload.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

The following localities are disproportionately affected by the proposed amendment. In the new Fredericksburg VOC Emissions Control Area, the County of Spotsylvania and the City of Fredericksburg are particularly affected. In the Richmond VOC Emissions Control Area, the counties of Charles City, Chesterfield, Hanover, Henrico, Prince George and the cities of Richmond, Hopewell, Colonial Heights and Petersburg are particularly affected. In the Hampton Roads VOC Emissions Control Area, the counties of Gloucester, Isle of Wight, James City, York and the cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach and Williamsburg are particularly affected. In the Western Virginia Emissions Control Area, the counties of Botetourt, Frederick, and Roanoke and the cities of Roanoke, Salem, and Winchester are particularly affected.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulation on farm or forest land preservation.

In addition to any other comments, the Department is seeking comments on the costs and benefits of the proposal and on any impacts of the regulation on farm and forest land preservation. Also, the Department is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include (1) projected reporting, recordkeeping and other administrative costs, (2) probable effect of the regulation on affected small businesses, and (3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments for the public comment file may do so at the public hearing (see below) or by mail, email or facsimile transmission to Gary Graham, Environmental Consultant, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240 (email: gegraham@deq.virginia.gov) (fax number 804-698-4510). Written comments must include the name, address and phone number of the commenter. Due to problems with the quality of facsimile transmissions, commenters are encouraged to provide the signed original by postal mail within one week. All testimony, exhibits and documents received are matters of public record. In order to be considered comments must be received by 5:00 p.m. on the date established as the close of the comment period.

A public hearing will be held and the notice of the public hearing, along with the comment period closing date, can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

Economic impact

Please identify the anticipated economic impact of the proposed regulation and at a minimum provide the information specified below. Also include a description of the beneficial impact the regulation is designed to produce.

<p>A. Description of the individuals, businesses or other entities likely to be affected by the regulation.</p>	<p>1. Owners and operators of the following 17 types of sources within Spotsylvania County, Prince George County, Gloucester County, and Isle of Wight County, and the cities of Fredericksburg and Petersburg may be affected by the automatic extension of their applicability to the proposed VOC emissions control areas:</p> <ul style="list-style-type: none"> a. Synthesized pharmaceutical product manufacturers, b. Rubber tire manufacturers, c. Petroleum refineries, d. Solvent metal cleaning operations, e. VOC storage and transfer operations, g. Large appliance coating operations, h. Magnet wire coating operations, i. Automobile and light duty truck coating operations, j. Can coating operations, k. Metal coil coating operations, l. Paper and fabric coating operations, m. Vinyl coating operations, n. Metal furniture coating operations, o. Miscellaneous metal parts coating operations, p. Flatwood paneling coating operations, q. Asphalt paving operations, and r. Petroleum liquid storage and transfer operations. <p>(Owners and operators of gasoline dispensing facilities within Prince George County and the city of Petersburg will be affected more than those in the other counties and cities listed because of</p>
--	--

	<p>the implementation of Stage II controls within Prince George County and the city of Petersburg.)</p> <p>2. Owners and operators of packaging and publishing rotogravure printing, and flexographic printing facilities may be affected as follows:</p> <ul style="list-style-type: none"> a. Facilities with a potential to emit 100 tons of VOC per year or more in Spotsylvania County, Prince George County, Gloucester County, Isle of Wight County and the cities of Fredericksburg and Petersburg will be affected facilities. b. Facilities with a potential to emit VOC in amounts less than 100 tons per year will now be exempt from control requirements in Botetourt County, Frederick County, Roanoke County and the cities of Roanoke, Salem and Winchester. <p>3. Owners and operators of lithographic printing facilities with a potential to emit 100 tons of VOC per year or more may be affected in Spotsylvania County, Prince George County, Gloucester County, Isle of Wight County, James City County, York County, Botetourt County, Frederick County, Roanoke County and the cities of Fredericksburg, Petersburg, Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach and Williamsburg.</p> <p>4. Owners and operators of facilities that manufacture or distribute the following types of products for sale within Spotsylvania County, Charles City County, Chesterfield County, Hanover County, Henrico County, Prince George County, and the cities of Fredericksburg, Colonial Heights, Hopewell, Richmond and Petersburg, may be affected:</p> <ul style="list-style-type: none"> a. Portable fuel containers. b. Architectural and industrial maintenance coatings (including, but not limited to, paints, varnishes, sealers, primers, and stains). c. Certain categories of consumer products that contain VOC (for example, adhesives, air fresheners, deodorants, cleaning supplies, degreasers, pesticides, and hair products, among others). <p>5. Owners and operators of mobile repair and refinishing facilities (and certain persons that provide or sell affected coatings) within Spotsylvania County, Charles City County, Chesterfield County, Hanover County, Henrico County, Prince George County, and the cities of Fredericksburg, Colonial Heights, Hopewell, Richmond and Petersburg may be affected.</p>
<p>B. Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or</p>	<p>Unlike areas that are currently designated nonattainment or maintenance, very little source-specific data exists for localities which have hitherto been considered to be attainment areas. In order to gain a general sense of what entities may be affected, the department searched its Comprehensive Environmental Data System (CEDs) and the Virginia Employment Commission (VEC) database for information relevant to localities which are affected.</p> <p>1. Information derived from data collected by CEDs reveals that 10 regulated facilities may be affected by the automatic extension of applicability of the 17 source type rules (listed in block A,</p>

<p>has gross annual sales of less than \$6 million.</p>	<p>paragraph 1 above) into Spotsylvania County, Prince George County, Gloucester County, and Isle of Wight County, and the cities of Fredericksburg and Petersburg. The number of identified affected facilities are listed by source category:</p> <ul style="list-style-type: none"> a. One synthesized pharmaceutical product manufacturer which is a small business. b. Four petroleum transfer and storage distributors – all are small businesses. c. One paper and fabric coating operation which is a small business, d. Four asphalt paving operations – all are small businesses. e. As of 2001, there were 55 gasoline dispensing stations registered in Spotsylvania County, Gloucester County, Isle of Wight County and the city of Fredericksburg that are likely to be affected. There were also 23 gasoline dispensing stations registered in Prince George County and the city of Petersburg that are likely to be affected. All are small businesses. <p>There are likely to be a significant but unknown number of small businesses with small, unregistered solvent cleaning operations associated with other business operations such as automobile repair shops, metal-working shops, and certain types of coating operations, which may be affected.</p> <p>There may be an additional number of other small businesses among the list of 17 source types that are affected, which are not currently registered and do not show up in either the CEDS or VEC databases.</p> <p>2. Information derived from data collected by CEDS reveals that seven regulated rotogravure or flexographic facilities may be affected by the proposed changes to Chapter 40, Article 36 concerning their applicability within the proposed revised VOC emissions control areas. All are small businesses.</p> <p>3. Information derived from data collected by CEDS reveals that seven regulated lithographic facilities may be affected by the proposed changes to Chapter 40, Article 53 concerning their applicability within the proposed revised VOC emissions control areas. All are small businesses.</p> <p>4. Information derived from data collected by CEDS reveals that seven manufacturers of portable fuel containers, architectural coatings and consumer products in Virginia are likely to be affected by the proposed changes to the VOC emissions control areas. All are small businesses.</p> <p>Information similarly derived from the VEC database indicates that 1081 other such facilities (such as distributors, retail outlets and contractors) may be affected by the proposed changes to the VOC emissions control areas. All are small businesses.</p> <p>5. No information concerning mobile repair and refinishing facilities was available in CEDS. Information derived from the VEC database indicates that as many as 114 of these small businesses may be affected by the proposed changes to the VOC emissions control areas. All are small businesses.</p>
<p>C. Projected cost of the</p>	<p>1. Source-specific cost data was estimated for the following</p>

<p>regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</p>	<p>source types listed in block A, paragraph 1 above (expressed as total cost for all sources in that source category in the newly affected areas, unless otherwise indicated):</p> <ul style="list-style-type: none"> a. Synthesized pharmaceutical manufacturing. It could cost as much as \$65,000 to bring this one identified facility into compliance. b. Petroleum transfer and storage operations, (including Stage I requirements for any applicable gasoline dispensing facilities). It could cost as much as \$5,600,000 to bring all of the identified and unidentified facilities into compliance, depending on how many of the requirements have already been installed. However, for that reason, it is likely that the actual costs will only be a fraction of that amount. c. Implementing stage II requirements, in addition to the other petroleum transfer and storage operations requirements, at gasoline dispensing facilities in Prince George County and Petersburg may cost as much as \$200,000 more. d. Paper and fabric coating operations. It may cost as much as \$56,000 to bring the one identified facility into compliance, depending on how many of the required controls have already been implemented. e. Solvent metal cleaning operations. It may cost as much as \$110,000 to bring all of the unidentified small facilities in the affected areas into compliance. f. Asphalt paving operations. A total cost of \$39,000 is estimated for bringing the four known facilities and any additional unidentified facilities into compliance. <p>Source-specific cost estimates were not determined for the remainder of the applicable source types listed in block A, paragraph 1 above because no facilities in some of those source types were identified. If any such facilities exist, the average cost per ton of VOC removal may be assumed to be \$2,400, although for miscellaneous parts coating operations the cost may be as high as \$115,000 per ton. The actual figure for each facility will vary widely depending on the source type, size, location, and controls.</p> <p>2. The total cost to bring all of the flexographic, packaging rotogravure and publication rotogravure printing facilities into compliance could be as much as \$73,000 depending on the size, type, and location of the facilities, the controls required, and how many of the control requirements were installed previously.</p> <p>3. The total cost to bring all four of the identified lithographic printing facilities identified into compliance could be as much as \$1,300,000. The actual figure, of course, will vary widely depending on the size and location of the facility, the controls required, and how many of the requirements were installed previously.</p> <p>4. The costs associated with expanding the applicability of the VOC content limits for consumer products and architectural, industrial and maintenance coatings to the Fredericksburg and Richmond VOC Emissions Control Areas are expected to be lower than the costs estimated for initial implementation of the regulation in Northern Virginia (\$800 and \$6,400 per ton, respectively). Manufacturers and distributors are already providing compliant</p>
--	---

	<p>products within Virginia, so only the smaller portion of those costs associated with adjusting distribution of compliant products to a wider area will be of concern. So the actual total costs are expected to be only a fraction of the estimated costs for implementing the consumer products and architectural, industrial and maintenance coatings regulations (\$84,000 and \$1,100,000, respectively).</p> <p>The costs to manufacturers of expanding the applicability of spillage requirements for portable fuel containers into the Richmond and Fredericksburg VOC Emissions Control Areas is expected to be similarly reduced from the \$450 per ton cost for initial implementation of the rule in Northern Virginia. So the cost to implement these requirements is expected to be only a fraction of the \$13,000 estimated cost.</p> <p>5. The total cost associated with expanding the applicability of the VOC content limits for mobile repair and refinishing operations to facilities in the Fredericksburg and Richmond VOC Emissions Control Areas could be as much as \$88,000.</p> <p>These projected costs include annual recordkeeping, reporting and other administrative costs that are required for compliance.</p>
<p>D. Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures.</p>	<p>It is not expected that the regulation will result in any cost to the Department beyond that currently in the budget. The sources of Department funds to carry out this regulation are the general fund and the federal trust (grant money provided by the U.S. Environmental Protection Agency under Section 105 of the federal Clean Air Act or permit fees charged to affected entities under the permit program). The activities are budgeted under the following program (code)/subprogram (code): (i) Environmental and Resource Management (5120000)/Air Quality Stationary Source Permitting (5122000) and Air Quality Stationary Source Compliance Inspections (5122100) and (ii) Environmental Research and Planning (5130000)/Air Quality Research and Planning (5130700). The costs are expected to be ongoing.</p>
<p>E. Projected cost of the regulation on localities.</p>	<p>The projected cost of the regulation on localities is not expected to be beyond that of other affected entities and are addressed in block C above.</p>
<p>F. Beneficial impact the regulation is designed to produce.</p>	<p>The adoption of these amendments will significantly decrease emissions of VOCs in the Richmond and Fredericksburg VOC Emissions Control Areas, and to a much lesser degree the Hampton Roads and Western VOC Emissions Control Areas, thus generally benefiting public health and welfare by reducing the formation of ground-level ozone within the ozone nonattainment areas. Specifically, VOC emission reductions are predicted as follows:</p> <ol style="list-style-type: none"> 1. From the 17 source categories listed in Block A, paragraph 1: <ol style="list-style-type: none"> a. As much as 27 tons per year from the one synthesized pharmaceutical product manufacturer. b. As much as 79 tons per year from the many unidentified solvent metal cleaning operations expected in the affected areas. c. As much as 23 tons per year from the one identified paper and fabric coating operation. d. As much as 322 tons per year from the four

	<p>identified asphalt paving operations and any other such facilities that are as yet unidentified,</p> <ul style="list-style-type: none"> e. As much as 2330 tons per year from the various petroleum liquid storage and transfer operations in the affected areas, excluding Stage II gasoline dispensing requirements. f. As much as 82 tons per year from implementing stage II gasoline dispensing requirements in Petersburg and Prince George County. <p>2. From the graphic arts source categories listed in block A, paragraphs 2 and 3:</p> <ul style="list-style-type: none"> a. As much as 37 tons per year from flexographic and rotogravure printing operations. b. As much as 648 tons per year from lithographic printing operations. <p>3. From the four source and product categories listed in block A, paragraphs 4 and 5:</p> <ul style="list-style-type: none"> a. As much as 105 tons per year from consumer products. b. As much as 178 tons per year from architectural and industrial maintenance coatings. c. As much as 28 tons per year from portable fuel containers. d. As much as 57 tons per year from mobile equipment repair and refinishing operations.
--	---

Legal requirements

Please identify the state and/or federal source of the legal requirements that necessitate promulgation of the proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal requirements and the extent to which the requirements are mandatory or discretionary.

Promulgating Entity

The promulgating entity for this regulation is the State Air Pollution Control Board.

Identification of Specific Applicable Federal Requirements

Ozone is formed by complex series of reactions between nitrogen oxides (NOx) and volatile organic compounds (VOCs) under the influence of solar ultraviolet radiation (sunlight). Ozone shows a very strong diurnal (daily) and seasonal (April to October) cyclical character. Ozone injures vegetation, has adverse effects on materials (rubber and fabrics), and is a pulmonary irritant that affects respiratory mucous membranes, lung tissues, and respiratory functions.

The original ozone air quality standard that was the focus of air quality planning requirements after the promulgation of the 1990 Amendments to the Clean Air Act was a 1-hour standard. Since then, EPA has promulgated a new 8-hour ozone air quality standard, and associated designation of nonattainment areas, which necessitates the initiation of new plans and regulatory actions.

40 CFR Part 81 specifies the designations of areas made under § 107(d) of the CAA and the associated nonattainment classification (if any) under § 181 of the CAA or 40 CFR 51.903(a), as applicable. On April 30, 2004 (69 FR 23858), EPA published its final decision as to the 8-hour nonattainment areas and associated classifications. The new designations are effective June 15, 2004. The Commonwealth of Virginia designations are in 40 CFR 81.347.

40 CFR Part 51, Subpart X, contains the provisions for the implementation of the 8-hour ozone NAAQS, along with the associated planning requirements. On April 30, 2004 (69 FR 23951), EPA published phase 1 of its final rule adding Subpart X to 40 CFR Part 51. Specifically, 40 CFR 51.903(a) sets forth the classification criteria and nonattainment dates for 8-hour ozone nonattainment areas once they are designated as such under 40 CFR Part 81. The remainder of the planning requirements (phase 2) is expected to be promulgated by the fall of 2005.

The state regulations established VOC and NO_x emissions control areas to provide the legal mechanism to define the geographic areas in which Virginia implements control measures to attain and maintain the air quality standards for ozone. The emissions control areas may or may not coincide with the nonattainment areas, depending on the necessity of the planning requirements.

General Federal Requirements

Sections 109 (a) and (b) of the Clean Air Act (CAA) require EPA to prescribe primary and secondary air quality standards to protect public health and welfare, respectively, for each air pollutant for which air quality criteria were issued before the enactment of the 1970 Clean Air Act. These standards are known as the National Ambient Air Quality Standards (NAAQS). Section 109 (c) requires the U.S. Environmental Protection Agency (EPA) to prescribe such standards simultaneously with the issuance of new air quality criteria for any additional air pollutant. The primary and secondary air quality criteria are authorized for promulgation under § 108.

Once the NAAQS are promulgated pursuant to § 109, § 107(d) sets out a process for designating those areas that are in compliance with the standards (attainment or unclassifiable) and those that are not (nonattainment). Governors provide the initial recommendations but EPA makes the final decision. Section 107(d) also sets forth the process for redesignations once the nonattainment areas are in compliance with the applicable NAAQS.

Section 110(a) of the CAA mandates that each state adopt and submit to EPA a plan which provides for the implementation, maintenance, and enforcement of each primary and secondary air quality standard within each air quality control region in the state. The state implementation plan shall be adopted only after reasonable public notice is given and public hearings are held. The plan shall include provisions to accomplish, among other tasks, the following:

(1) establish enforceable emission limitations and other control measures as necessary to comply with the provisions of the CAA, including economic incentives such as fees, marketable permits, and auctions of emissions rights;

(2) establish schedules for compliance;

(3) prohibit emissions which would contribute to nonattainment of the standards or interference with maintenance of the standards by any state; and

(4) require sources of air pollution to install, maintain, and replace monitoring equipment as necessary and to report periodically on emissions-related data.

40 CFR Part 50 specifies the NAAQS: sulfur dioxide, particulate matter, carbon monoxide, ozone (its precursors are nitrogen oxides and volatile organic compounds), nitrogen dioxide, and lead.

40 CFR Part 51 sets out requirements for the preparation, adoption, and submittal of state implementation plans. These requirements mandate that any such plan shall include several provisions, including those summarized below.

Subpart G (Control Strategy) specifies the description of control measures and schedules for implementation, the description of emissions reductions estimates sufficient to attain and maintain the standards, time periods for demonstrations of the control strategy's adequacy, an emissions inventory, an air quality data summary, data availability, special requirements for lead emissions, stack height provisions, and intermittent control systems.

Subpart K (Source Surveillance) specifies procedures for emissions reports and record-keeping, procedures for testing, inspection, enforcement, and complaints, transportation control measures, and procedures for continuous emissions monitoring.

Subpart L (Legal Authority) specifies the requirements for legal authority to implement plans.

Section 51.230 under Subpart L specifies that each state implementation plan must show that the state has the legal authority to carry out the plan, including the authority to perform the following actions:

- (1) adopt emission standards and limitations and any other measures necessary for the attainment and maintenance of the national ambient air quality standards;
- (2) enforce applicable laws, regulations, and standards, and seek injunctive relief;
- (3) abate pollutant emissions on an emergency basis to prevent substantial endangerment to the health of persons;
- (4) prevent construction, modification, or operation of a facility, building, structure, or installation, or combination thereof, which directly or indirectly results or may result in emissions of any air pollutant at any location which will prevent the attainment or maintenance of a national standard;
- (5) obtain information necessary to determine whether air pollution sources are in compliance with applicable laws, regulations, and standards, including authority to require record-keeping and to make inspections and conduct tests of air pollution sources;
- (6) require owners or operators of stationary sources to install, maintain, and use emission monitoring devices and to make periodic reports to the state on the nature and amounts of emissions from such stationary sources; and
- (7) make emissions data available to the public as reported and as correlated with any applicable emission standards or limitations.

Section 51.231 under Subpart L requires the identification of legal authority as follows:

- (1) the provisions of law or regulation which the state determines provide the authorities required under this section must be specifically identified, and copies of such laws or regulations must be submitted with the plan; and
- (2) the plan must show that the legal authorities specified in this subpart are available to the state at the time of submission of the plan.

Subpart N (Compliance Schedules) specifies legally enforceable compliance schedules, final compliance schedule dates, and conditions for extensions beyond one year.

Part D describes how nonattainment areas are established, classified, and required to meet attainment. Subpart 1 provides the overall framework of what nonattainment plans are to contain, while Subpart 2 provides more detail on what is required of areas designated nonattainment for ozone.

Section 171 defines "reasonable further progress," "nonattainment area," "lowest achievable emission rate," and "modification."

Section 172(a) authorizes EPA to classify nonattainment areas for the purpose of assigning attainment dates. Section 172(b) authorizes EPA to establish schedules for the submission of plans designed to achieve attainment by the specified dates. Section 172(c) specifies the provisions to be included in each attainment plan, as follows:

- (1) the implementation of all reasonably available control measures as expeditiously as practicable and shall provide for the attainment of the national ambient air quality standards;
- (2) the requirement of reasonable further progress;
- (3) a comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutants in the nonattainment area;
- (4) an identification and quantification of allowable emissions from the construction and modification of new and modified major stationary sources in the nonattainment area;
- (5) the requirement for permits for the construction and operations of new and modified major stationary sources in the nonattainment area;
- (6) the inclusion of enforceable emission limitations and such other control measures (including economic incentives such as fees, marketable permits, and auctions of emission rights) as well as schedules for compliance;
- (7) if applicable, the proposal of equivalent modeling, emission inventory, or planning procedures; and
- (8) the inclusion of specific contingency measures to be undertaken if the nonattainment area fails to make reasonable further progress or to attain the national ambient air quality standards by the attainment date.

Section 172(d) requires that attainment plans be revised if EPA finds inadequacies. Section 172(e) authorizes the issuance of requirements for nonattainment areas in the event of a relaxation of any national ambient air quality standard. Such requirements shall provide for controls which are not less stringent than the controls applicable to these same areas before such relaxation.

Section 107(d)(3)(D) provides that a state may petition EPA to redesignate a nonattainment area as attainment and EPA may approve the redesignation subject to certain criteria being met. Section 107(d)(3)(E) stipulates one of these criteria, that EPA must fully approve a maintenance plan that meets the requirements of § 175A.

According to § 175A(a), the maintenance plan must be part of a SIP submission, and must provide for maintenance of the NAAQS for at least 10 years after the redesignation. The plan must contain any additional measures, as needed, to ensure maintenance. Section 175A(b) further requires that 8 years after redesignation, a maintenance plan for the next 10 years must then be submitted. As stated in § 175A(c), nonattainment requirements continue to apply until the SIP submittal is approved. Finally, § 175A(d) requires that the maintenance plan contain contingency provisions which will be implemented should the area fail to maintain the NAAQS as provided for in the original plan.

Under Part D, Subpart 2, § 181 sets forth the classifications and nonattainment dates for 1-hour ozone nonattainment areas once they are designated as such under § 107(d).

Section 182(a)(2)(A) requires that the existing regulatory program requiring reasonably available control technology (RACT) for stationary sources of volatile organic compounds (VOCs) in marginal nonattainment areas be corrected by May 15, 1991, to meet the minimum requirements in existence prior to the enactment of the 1990 amendments. RACT is the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. EPA has published control technology guidelines (CTGs) for various types of sources, thereby defining the minimum acceptable control measure or RACT for a particular source type.

Section 182(b) requires stationary sources in moderate nonattainment areas to comply with the requirements for sources in marginal nonattainment areas. The additional, more comprehensive control measures in §182(b)(2)(A) require that each category of VOC sources employ RACT if the source is covered by a CTG document issued between enactment of the 1990 amendments and the attainment date for the nonattainment area. Section 182(b)(2)(B) requires that existing stationary sources emitting VOCs for which a CTG existed prior to adoption of the 1990 amendments also employ RACT.

Section 182(c) requires stationary sources in serious nonattainment areas to comply with the requirements for sources in both marginal and moderate nonattainment areas.

Section 182(d) requires stationary sources in severe nonattainment areas to comply with the requirements for sources in marginal, moderate and serious nonattainment areas.

Section 182(f) extends the requirements for the control of VOC emissions to emissions of NO_x.

40 CFR Part 81 specifies the designations of areas made under § 107(d) of the CAA and the associated nonattainment classification (if any) under § 181 of the CAA or 40 CFR 51.903(a), as applicable.

EPA has issued detailed guidance that sets out its preliminary views on the implementation of the air quality planning requirements applicable to nonattainment areas. This guidance is titled the "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990" (or "General Preamble"). See 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992). The General Preamble has been supplemented with further guidance on Title I requirements. See 57 FR 55621 (Nov. 25, 1992) (guidance on NO_x RACT requirements in ozone nonattainment areas). For this subject, the guidance provides little more than a summary and reiteration of the provisions of the Act.

On June 21, 2001, EPA issued formal guidelines for the "Ozone Flex Program." These guidelines set out eligibility requirements, what measures may be taken and how, and how localities, states and EPA are to develop and implement early reduction plans. On November 14, 2002, EPA issued a schedule for 8-hour ozone designations and its effect on early action compacts for potential 8-hour nonattainment areas.

40 CFR Part 51, Subpart X, contains the provisions for the implementation of the 8-hour ozone NAAQS, along with the associated planning requirements. Specifically, 40 CFR 51.903(a) sets forth the classification criteria and nonattainment dates for 8-hour ozone nonattainment areas once they are designated as such under 40 CFR Part 81.

State Requirements

These specific amendments are not required by state mandate. Rather, Virginia's Air Pollution Control Law gives the State Air Pollution Control Board the discretionary authority to promulgate regulations "abating, controlling and prohibiting air pollution throughout or in any part of the Commonwealth" (§ 10.1-1308). The law defines such air pollution as "the presence in the outdoor atmosphere of one or more substances which are or may be harmful or injurious to human health, welfare or safety, to animal or plant

life, or to property, or which unreasonably interfere with the enjoyment by the people or life or property" (§ 10.1-1300).

Comparison with federal requirements

Please identify and describe any requirement of the proposal which are more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

The proposed regulation amendments are not more restrictive than the applicable legal requirements.

Need

Please explain the need for the new or amended regulation and the potential consequences that may result in the absence of the regulation. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal, the environmental benefits of the proposal, and the problems the proposal is intended to solve.

Identification of Specific Planning Requirements Establishing the Need

Ozone is formed by complex series of reactions between nitrogen oxides (NOx) and volatile organic compounds (VOCs) under the influence of solar ultraviolet radiation (sunlight). Ozone shows a very strong diurnal (daily) and seasonal (April to October) cyclical character. Ozone injures vegetation, has adverse effects on materials (rubber and fabrics), and is a pulmonary irritant that affects respiratory mucous membranes, lung tissues, and respiratory functions.

The original ozone air quality standard that was the focus of air quality planning requirements after the promulgation of the 1990 Amendments to the Clean Air Act was a 1-hour standard. Since then, EPA has promulgated a new 8-hour ozone air quality standard. Air quality planning efforts to address compliance with the new 8-hour standard are in the early stages. On April 15, 2004, EPA has promulgated its decision as to the 8-hour nonattainment areas and some of the planning requirements, but the final decision regarding the remainder of the planning requirements will not be made known until mid-August 2004. The state regulations established VOC and NOx emissions control areas to provide the legal mechanism to define the geographic areas in which Virginia implements control measures to attain and maintain the air quality standards for ozone. The emissions control areas may or may not coincide with the nonattainment areas, depending on the necessity of the planning requirements.

Three areas of Virginia were originally established as VOC and NOx emissions control areas: Northern Virginia, Hampton Roads, and Richmond. These three VOC and NOx emissions control areas were established in order to implement control measures to attain the 1-hour ozone air quality standard. The Northern Virginia area remains out of compliance with the 1-hour standard and designated nonattainment for the 1-hour ozone standard; the area was recently reclassified to a severe classification. Furthermore, it was designated nonattainment for the 8-hour ozone standard. However, both the Hampton Roads and Richmond areas are in compliance with the 1-hour standard and are designated maintenance areas but were also designated nonattainment for the 8-hour standard. Promulgation of the 8-hour nonattainment areas resulted in some additional nonattainment areas as follows: Frederick County area, Fredericksburg area, and Roanoke area.

The Northern Virginia VOC and NO_x Emissions Control Area currently consists of the counties of Arlington, Fairfax, Loudoun, Prince William, and Stafford; and the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park. No localities need to be added to the area as a result of the promulgation of the 8-hour ozone nonattainment areas. The Richmond VOC and NO_x Emissions Control Area currently consists of the counties of Charles City, Chesterfield, Hanover, and Henrico; and the cities of Colonial Heights, Hopewell, and Richmond. The following new localities need to be added to the area as a result of the promulgation of the 8-hour ozone nonattainment areas: Petersburg City and Prince George County. The Hampton Roads VOC and NO_x Emissions Control Area currently consists of the counties of James City and York; and the cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg. The following new localities need to be added to the area as a result of the promulgation of the 8-hour ozone nonattainment areas: Gloucester County and Isle of Wight County.

Recently, a new VOC and NO_x emissions control area was established: the Western Virginia Area. This area was designated nonattainment for the 8-hour ozone standard but was added to the list of VOC and NO_x emissions control areas prior to EPA's final decision regarding the 8-hour nonattainment areas. This was done so the affected localities could participate in EPA's Early Action Compact program. The Western Virginia VOC and NO_x Emissions Control Area includes the counties of Botetourt, Frederick and Roanoke; and the cities of Roanoke, Salem, and Winchester.

One more VOC and NO_x emissions control area will need to be established: the Fredericksburg Area. This area was designated nonattainment for the 8-hour ozone standard. The Fredericksburg VOC and NO_x Emissions Control Area would include Spotsylvania County and Fredericksburg City.

Thus, the amendment of the regulations is to expand the applicability of the VOC and NO_x regulatory program into the new 8-hour nonattainment areas. For the areas that have been designated nonattainment for the 8-hour ozone standard, the amendment of the rule is to make legally enforceable several control measures to be included plans for the attainment and maintenance of the ozone air quality standard in those areas. This regulatory action is thus essential to protect the health, safety, and welfare of citizens.

General Planning Requirements

Among the primary goals of the federal Clean Air Act are the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) and the prevention of significant deterioration (PSD) of air quality in areas cleaner than the NAAQS.

The NAAQS, developed and promulgated by the U.S. Environmental Protection Agency (EPA), establish the maximum limits of pollutants that are permitted in the outside ambient air. EPA requires that each state submit a plan (called a State Implementation Plan or SIP), including any laws and regulations necessary to enforce the plan, that shows how the air pollution concentrations will be reduced to levels at or below these standards (attainment). Once the pollution levels are within the standards, the SIP must also demonstrate how the state will maintain the air pollution concentrations at the reduced levels (maintenance).

The PSD program is designed to protect air quality in areas where the air is cleaner than required by the NAAQS. The program has three classifications for defining the level of allowable degradation: Class I is the most stringent classification, allowing for little additional pollution, while Class III allows the most. All of Virginia is classified at the moderate level, Class II, with the exception of two Class I federal lands.

A SIP is the key to the state's air quality programs. The Clean Air Act is specific concerning the elements required for an acceptable SIP. If a state does not prepare such a plan, or EPA does not approve a submitted plan, then EPA itself is empowered to take the necessary actions to attain and maintain the air quality standards--that is, it would have to promulgate and implement an air quality plan for that state. EPA is also, by law, required to impose sanctions in cases where there is no approved plan or the plan is

not being implemented, the sanctions consisting of loss of federal funds for highways and other projects and/or more restrictive requirements for new industry. Generally, the plan is revised, as needed, based upon changes in the federal Clean Air Act and associated EPA regulations and policies.

The basic approach to developing a SIP is to examine air quality across the state, delineate areas where air quality needs improvement, determine the degree of improvement necessary, inventory the sources contributing to the problem, develop a control strategy to reduce emissions from contributing sources enough to bring about attainment of the air quality standards, implement the strategy, and take the steps necessary to ensure that the air quality standards are not violated in the future.

The heart of the SIP is the control strategy. The control strategy describes the emission reduction measures to be used by the state to attain and maintain the air quality standards. There are three basic types of measures: stationary source control measures, mobile source control measures, and transportation source control measures. Stationary source control measures are directed at limiting emissions primarily from commercial/industrial facilities and operations and include the following: emission limits, control technology requirements, preconstruction permit programs for new industry and expansions, and source-specific control requirements. Stationary source control measures also include area source control measures which are directed at small businesses and consumer activities. Mobile source control measures are directed at tailpipe and other emissions primarily from motor vehicles and include the following: Federal Motor Vehicle Emission Standards, fuel volatility limits, reformulated gasoline, emissions control system anti-tampering programs, and inspection and maintenance programs. Transportation source control measures limit the location and use of motor vehicles and include the following: carpools, special bus lanes, rapid transit systems, commuter park and ride lots, bicycle lanes, signal system improvements, and many others.

Federal guidance on states' approaches to the inclusion of control measures in the SIP has varied considerably over the years, ranging from very general in the early years of the Clean Air Act to very specific in more recent years. Many regulatory requirements were adopted in the 1970s when no detailed guidance existed. The legally binding federal mandate for these regulations is general, not specific, consisting of the Clean Air Act's broad-based directive to states to attain and maintain the air quality standards. However, in recent years, the Clean Air Act, along with EPA regulations and policy, has become much more specific, thereby removing much of the states' discretion to craft their own air quality control programs.

Generally, a SIP is revised, as needed, based upon changes in air quality or statutory requirements. For the most part the SIP has worked, and the standards have been attained for most pollutants in most areas. However, attainment of NAAQS for one pollutant--ozone--has proven problematic. While ozone is needed at the earth's outer atmospheric layer to shield out harmful rays from the sun, excess concentrations at the surface have an adverse effect on human health and welfare. Ozone is formed by a chemical reaction between volatile organic compounds (VOCs), nitrogen oxides (NOx), and sunlight. When VOC and NOx emissions from mobile sources and stationary sources are reduced, ozone is reduced.

Congress enacted the 1977 Amendments to the Clean Air Act in order to address unsuccessful SIPs and areas that had not attained the NAAQS (that is, nonattainment areas). Although SIP revisions submitted pursuant to the requirements of the 1977 amendments did achieve some progress in eliminating nonattainment areas, some areas remained.

In 1990 Congress once again enacted comprehensive amendments to the Act to address SIP requirements for nonattainment areas. The new Act established a process for evaluating the air quality in each region and identifying and classifying each nonattainment area according to the severity of its air pollution problem. Nonattainment areas are classified as marginal, moderate, serious, severe and extreme. Marginal areas are subject to the least stringent requirements and each subsequent classification (or class) is subject to successively more stringent control measures. Areas in a higher classification of nonattainment must meet the mandates of the lower classifications plus the more stringent requirements of their class. In addition to the general SIP-related sanctions, nonattainment

areas have their own unique sanctions. If a particular area fails to attain the federal standard by the legislatively mandated attainment date, EPA is required to reassign it to the next higher classification level (denoting a worse air quality problem), thus subjecting the area to more stringent air pollution control requirements. The Clean Air Act includes specific provisions requiring these sanctions to be issued by EPA if so warranted.

The new Act required EPA, based on the air quality data from each state, to propose geographic boundaries and pollution classification levels for all nonattainment areas to each state's governor. If states disagreed with EPA's proposals, they had the opportunity to propose different boundaries; however, EPA had the authority to make the final decision.

The process provided in the new Act yielded three nonattainment areas for Virginia for the 1-hour ozone air quality standard. The classifications for Virginia's nonattainment areas were marginal for the Hampton Roads Nonattainment Area, moderate for the Richmond Nonattainment Area, and serious for the Northern Virginia Nonattainment Area. Since that time, air quality has improved in some areas. Richmond and Hampton Roads have achieved the 1-hour ozone standard and are now considered maintenance areas; that is specific strategies that were implemented must continue, however, no additional new requirements are necessary provided the areas do not measure ozone concentrations in levels high enough to reclassify them into nonattainment. Meanwhile, Northern Virginia continues to experience difficulty in attaining the 1-hour standard and remains a nonattainment area. Although initially classified as serious, the Northern Virginia Ozone Nonattainment Area is now classified as severe because it failed to attain the 1-hour ozone air quality standard by the legislatively mandated attainment date for serious areas.

The original ozone air quality standard that was the focus of air quality planning requirements after the promulgation of the 1990 Amendments to the Clean Air Act was a 1-hour standard (0.12 ppm). Since then, EPA has promulgated a new 8-hour ozone air quality standard (0.08 ppm). Air quality planning efforts to address compliance with the new 8-hour standard are in the early stages. On April 15, 2004, EPA promulgated its decision as to the 8-hour nonattainment areas and some of the planning requirements. Also, EPA hopes to finalize the remainder of the air quality planning requirements by mid-August 2004, so that states can begin to develop their implementation plans. Promulgation of the 8-hour nonattainment areas resulted in some additional areas (with classifications) as follows: Frederick County Nonattainment Area, Fredericksburg Nonattainment Area, and Roanoke Nonattainment Area. The Frederick County Nonattainment Area and Roanoke Nonattainment Area are classified as basic areas and the effective date of the nonattainment designation has been delayed because the affected localities volunteered to participate in the Early Action Compact program (see below). The Fredericksburg Nonattainment Area is classified moderate.

EPA has established the Early Action Compact program to allow areas that may potentially become designated nonattainment under the 8-hour ozone standard to voluntarily adopt local emission control programs to avoid air quality violations and the potential of mandated controls. By avoiding the nonattainment designation, these areas will avoid new source review for major sources, including the requirement to make offsets, and conformity review. These areas will also experience a reduction in ozone air pollution, and thus experience improved public health and welfare.

Once the nonattainment areas are defined, each state is then obligated to submit a SIP demonstrating how it will attain the air quality standards in each nonattainment area. First, the Act requires that certain specific control measures and other requirements be adopted and included in the SIP; a list of those that necessitates the adoption or modification of state regulations is provided below. In addition for moderate nonattainment areas, the state has to demonstrate that it would achieve a VOC emission reduction of 15% within 6 years of the base year. Finally for serious nonattainment areas, the SIP has to include an attainment demonstration by photochemical modeling (including annual emission reductions of 3% for years 7 to 9 beyond the base year) in addition to the 15% emission reduction demonstration. In cases where the specific control measures shown below are inadequate to achieve the emission reductions or attain the air quality standard, the state is obligated to adopt other control measures as necessary to achieve this end.

ALL AREAS

- correct existing VOC regulatory program (controls on certain sources identified in EPA control technology guidelines)
- requirement for annual statements of emissions from industries
- preconstruction review (permit) program for new industry and expansions (with variable major source definition, variable offset ratio for addition of new pollution, and special requirements for expansions to existing industry in serious areas)
- offset ratio for addition of new pollution of 1.1 to 1
- procedures to determine if systems level highway plans and other federally financed projects are in conformity with air quality plans

MODERATE AND ABOVE AREAS

- requirement for controls for all VOC sources identified in EPA control technology guidelines
- case by case control technology determinations for all major VOC and NOX sources not covered by a EPA control technology guideline
- requirement for controls for all major (100 tons per year) VOC sources
- requirement for controls for all major (100 tons per year) NOX sources
- offset ratio for addition of new pollution of 1.15 to 1
- requirement for vapor recovery controls for emissions from filling vehicles with gasoline (stage II)
- basic motor vehicle emissions inspection and maintenance program

SERIOUS AND ABOVE AREAS

- requirement for controls for all major (50 tons per year) VOC sources
- requirement for controls for all major (50 tons per year) NOX sources
- offset ratio for addition of new pollution of 1.2 to 1
- enhanced monitoring (source emissions) program
- correct existing motor vehicle emissions inspection and maintenance (I&M) program
- enhanced motor vehicle emissions I&M program
- clean fuel fleet vehicle program
- oxygenated fuels program

SEVERE AND ABOVE AREAS

- requirement for controls for all major (25 tons per year) VOC sources
- requirement for controls for all major (25 tons per year) NOX sources
- offset ratio for addition of new pollution of 1.3 to 1
- requirement for major sources to pay a penalty fee if area does not attain air quality standard by attainment date
- transportation control strategies and measures to offset emissions growth from VMT

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

As provided in the public participation procedures of the State Air Pollution Control Board, the Department included, in the Notice of Intended Regulatory Action, a description of the Department's alternatives and a request for comments on other alternatives and the costs and benefits of the Department's alternatives or any other alternatives that the commenters provided.

Following the above, alternatives to the proposed regulation amendments were considered by the Department. The Department determined that the first alternative is appropriate, as it is the least burdensome and least intrusive alternative that fully meets the purpose of the regulation. The alternatives considered by the Department, along with the reasoning by which the Department has rejected any of the alternatives being considered, are discussed below.

1. Amend the regulations to satisfy the provisions of the law and associated regulations and policies. This option is being selected because it meets the stated purpose of the regulatory action: to allow Virginia to meet its obligation to implement control measures in areas designated as nonattainment under the 8-hour ozone standard, thus protecting public health and welfare.

2. Make alternative regulatory changes to those required by the provisions of the law and associated regulations and policies. This option is not being selected because it would be contrary to the requirements of the Clean Air Act. This alternative included consideration of a cap and trade program. As explained above, control measures contained in SIPs usually fall into two categories: those mandated by the Act or federal government and those selected at the discretion of the state. This regulatory action is being initiated to meet a specific requirement of the Clean Air Act, where the state does not have discretion. Furthermore, because of the complexity of federal guidance and the stringency of federal oversight on emissions trading, the development of a cap-and-trade program would take years longer to develop and implement than will the regulations, with VOC emissions remaining unreduced in the meantime. Finally, while cap and trade programs are fairly easy to implement for larger stationary sources, application of such programs to smaller sources poses unique challenges requiring even more resources and time to establish and implement. Finally, unlike the current national acid rain and NOx trading programs, the state would not have the assistance of EPA in the implementation and would have to summon up the resources to implement and maintain the program on its own.

3. Take no action to amend the regulations and continue to operate under the existing regulatory program. This option is not being selected because it would allow the current emissions levels in nonattainment areas to be maintained and possibly increase, to the detriment of public health and welfare. If a state does not prepare such a plan, or EPA does not approve a submitted plan, then EPA itself is empowered to take the necessary actions to attain and maintain the air quality standards--that is, it would have to promulgate and implement an air quality plan for that state. EPA is also, by law, required to impose sanctions in cases where there is no approved plan or the plan is not being implemented, the sanctions consisting of loss of federal funds for highways and other projects and/or more restrictive requirements for new industry.

Regulatory Flexibility Analysis

Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: (1) the establishment of less stringent compliance or reporting requirements; (2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; (3) the consolidation or simplification of compliance or reporting requirements; (4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and (5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

Although the regulations apply to all facilities of the applicable source type, these standards were specifically designed to apply to facilities of the size that are now defined as small businesses. As such, any (1) establishment of less stringent compliance or reporting standards; (2) establishment of less stringent schedules or deadlines for compliance or reporting requirements; (3) consolidation or simplification of compliance or reporting requirements; (4) establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; or (5) exemption of small businesses from all or any part of the requirements contained in the proposed regulation for all small businesses would directly, significantly and adversely impact the benefits that would be achieved through the implementation of the existing regulations into the new nonattainment areas.

Public comment

Please summarize all public comment received during the comment period following the publication of the NOIRA, and provide the agency response. If no public comment was received, please so indicate.

No public input was received during the public comment period for this intended regulatory action.

Family impact

Please provide an assessment of the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: (1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; (2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; (3) strengthen or erode the marital commitment; and (4) increase or decrease disposable family income.

It is not anticipated that these regulation amendments will have a direct impact on families. However, there will be positive indirect impacts in that the regulation amendments will ensure that the Commonwealth's air pollution control regulations will function as effectively as possible, thus contributing to reductions in related health and welfare problems.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
9 VAC 5 Chapter 20, Part II			

None.	206 1 b.	None.	Added a new Fredericksburg VOC Emissions Control Area consisting of Spotsylvania County and Fredericksburg City and renumbered subsequent subdivisions. Necessary to implement VOC regulations within the Fredericksburg 8-hour Ozone Nonattainment Area.
206 1 b.	206 1 c.	Lists the counties and cities in the Richmond VOC Emissions Control Area.	Added two areas to the Richmond VOC Emissions Control Area: Prince George County and Petersburg City. Necessary to implement VOC regulations within the Richmond 8-hour Ozone Nonattainment Area.
206 1 d.	206 1 e.	Lists the counties and cities in the Western VOC Emissions Control Area.	Re-numbered.
None.	206 2 b.	None.	Added a new Fredericksburg NO _x Emissions Control Area consisting of Spotsylvania County and Fredericksburg City and renumbered subsequent subdivisions. Necessary to implement NO _x regulations within the Fredericksburg 8-hour Ozone Nonattainment Area.
206 2 b.	206 2 c.	Lists the counties and cities in the Richmond NO _x Emissions Control Area.	Added two areas to the Richmond NO _x Emissions Control Area: Prince George County and Petersburg City. Necessary to implement NO _x regulations within the Richmond 8-hour Ozone Nonattainment Area.
206 2 c.	206 2 d.	Lists the counties and cities in the Hampton Roads NO _x Emissions Control Area.	Added two areas to the Hampton Roads NO _x Emissions Control Area: Gloucester County and Isle of Wight County. Necessary to implement NO _x regulations within the Hampton Roads 8-hour Ozone Nonattainment Area.
206 2 d.	206 2 e.	Lists the counties and cities in the Western NO _x Emissions Control Area.	Re-numbered.
9 VAC 5, Chapter 40, Part II, Article 4			
300 B.		Applies the provisions of this article to the larger facilities in the Northern Virginia and Richmond VOC Emissions Control Areas.	Limited the Richmond VOC Emissions Control Area to the cities and counties that were in it before the areas VOC emissions control areas were amended. Necessary to prevent VOC sources in Prince George County and Petersburg from inappropriately having to do VOC RACT in an area that is now designated as a marginal ozone nonattainment area.
9 VAC 5, Chapter 40, Part II, Article 36			
Title.		"Flexographic, Packaging Rotogravure, and Publication Rotogravure Printing Lines (Rule 4-36)"	Adds the phrase "Emission Standards for" to the title. Necessary to continue the process of standardizing the titles of Chapter 40 articles.
5060 D.		Exempts small facilities	Exempts facilities with a potential to emit of

		(those with a potential to emit less than 100 tons of VOC per year) from the flexographic and rotogravure printing VOC emission standards in the Richmond and Hampton Roads VOC Emissions Control Areas.	100 tons per year or less in <u>all</u> VOC emission control areas other than Northern Virginia. Necessary to add small facility exemptions for facilities in the recently promulgated Western VOC Emissions Control Area and in the new Fredericksburg VOC Emissions Control Area.
9 VAC 5, Chapter 40, Part II, Article 37			
5200 B.		Lists four exception categories for applicability of Emission Standards For Petroleum Liquid Storage and Transfer Operations (Rule 4-37).	Truncates the exception list to three categories. Necessary to reduce the number of the exception categories because one category became meaningless with the addition of the new 8-hour ozone nonattainment areas.
5200 B 1.		Removes Botetourt County, Frederick County and Winchester City from applicability for provisions for emission standards for all gasoline bulk loading, both Stage I and II gasoline station dispensing, and tanker truck vapor recovery.	Removes the exemption for Stage II gasoline dispensing emission standards for these areas, since the provisions for Stage II are only applicable in the Richmond and Northern Virginia VOC Emissions Control Areas and not in those areas listed. Necessary to remove redundancy from the regulation.
5200 B 3.		This applicability exception restricts applicability of the emission standards to the ozone nonattainment areas listed in 9 VAC 5-20-204, the maintenance areas listed in 9 VAC 5-20-203, the county of Roanoke, and the cities of Salem and Roanoke.	Deleted. With the reestablishment of the Richmond and the Hampton Roads VOC Emissions Control Areas, the recent establishment of the Western VOC Emissions Control Area, and the new Fredericksburg VOC Emissions Control Area, all ozone nonattainment areas, maintenance areas, and the listed county and cities are all covered by VOC emissions control areas applicable under subsection B. Necessary to remove redundancy from the regulation.
5200 B 4.	5200 B 3.	Applies the provisions of the VOC emissions standards for bulk loading to gasoline bulk terminals in Bedford County, which is not in any of the VOC emissions control areas.	Renumbered.
9 VAC 5, Chapter 40, Part II, Article 42			
Title.		"Emission Standards for Portable Fuel Container Spillage in the Northern Virginia Volatile Organic Compound Emissions Control Area (Rule 4-42)."	Generalizes the title by removing reference to the Northern Virginia VOC Emissions Control Area. Necessary to make the title consistent with the new, broader applicability of the regulation to the Richmond and Fredericksburg VOC Emissions Control Areas.
5700 B.		Limits applicability of the regulation to sources and	Broadens the applicability of the regulation so that the provisions are also applicable to

		persons in the Northern Virginia VOC Emissions Control Area.	sources and persons in the Richmond and Fredericksburg VOC Emissions Control Areas. Necessary to attain and maintain the ozone air quality standards in the corresponding nonattainment areas.
5700 C.		Exempts portable fuel containers and spouts manufactured for shipment, sale and use outside of the Northern Virginia VOC Emissions Control Area.	Broadens the exemption so that portable fuel containers and spouts are exempt if they are manufactured for shipment, sale and use outside of all three of the applicable VOC emissions control areas: the Northern Virginia, Richmond and Fredericksburg VOC Emissions Control Areas. Necessary to be consistent with the broader applicability of the regulation.
5700 D.		Exempts manufacturers and distributors of portable fuel containers or spouts from the provisions of the regulation providing that they can demonstrate: (i) that the product is intended for shipment and use outside the Northern Virginia VOC Emissions Control Area, and (ii) that they have taken reasonable precautions to assure it is not distributed within the Northern Virginia VOC Emissions Control Area.	Broadens the exemption so that manufacturers and distributors are exempt only if they can demonstrate that the products are intended for shipment and use outside all three areas applicable VOC emission control areas (Northern Virginia, Richmond and Fredericksburg VOC Emissions Control Areas) and have taken reasonable precautions to assure it. Necessary to be consistent with the broader applicability of the regulation.
5740 E.		Provides a sell-through provision for products manufactured before the January 1, 2005 compliance date applicable to the Northern Virginia VOC Emissions Control Area.	Ties the sell-through provision to the compliance dates as they are amended in section 5750. Necessary to keep the sell-through dates consistent with the amended compliance date provisions.
5750 A.		Provides a firm January 1, 2005 compliance date for affected persons in the Northern Virginia VOC Emissions Control Area.	Provides a new compliance date of January 1, 2008 for affected persons in the newly applicable Richmond and Fredericksburg VOC Emissions Control Areas. Necessary to ensure that affected persons have time to comply with applicable provisions.
9 VAC 5, Chapter 40, Part II, Article 48			
Title.		“Emission Standards for Mobile Equipment Repair and Refinishing Operations in the Northern Virginia Volatile Organic Compound Emissions Control Area (Rule 4-48).”	Generalizes the title by removing reference to the Northern Virginia VOC Emissions Control Area. Necessary to make the title consistent with the new, broader applicability of the regulation to the Richmond and Fredericksburg VOC Emissions Control Areas.
6790 B.		Limits applicability of the	Broadens the applicability of the regulation

		regulation to sources and persons in the Northern Virginia VOC Emissions Control Area.	so that the provisions are also applicable to sources and persons in the Richmond and Fredericksburg VOC Emissions Control Areas. Necessary to attain and maintain the ozone air quality standards in the corresponding nonattainment areas.
7050		Provides a firm January 1, 2005 compliance date for affected persons in the Northern Virginia VOC Emissions Control Area.	Provides a new compliance date of January 1, 2008 for affected persons in the newly applicable Richmond and Fredericksburg VOC Emissions Control Areas. Also adds "affected facilities" to the compliance schedule in addition to "affected persons". Necessary to ensure that affected persons and facilities have time to comply with applicable provisions.
9 VAC 5, Chapter 40, Part II, Article 49			
Title.		"Emission Standards for Mobile Architectural and Industrial Maintenance Coatings in the Northern Virginia Volatile Organic Compound Emissions Control Area (Rule 4-49)."	Generalizes the title by removing reference to the Northern Virginia VOC Emissions Control Area. Necessary to make the title consistent with the new, broader applicability of the regulation to the Richmond and Fredericksburg VOC Emissions Control Areas.
7120 B.		Limits applicability of the regulation to sources and persons in the Northern Virginia VOC Emissions Control Area.	Broadens the applicability of the regulation so that the provisions are also applicable to sources and persons in the Richmond and Fredericksburg VOC Emissions Control Areas. Also deletes a reference to "sources" to match the applicability statement in subsection A. Necessary to attain and maintain the ozone air quality standards in the corresponding nonattainment areas.
7120 C 1.		Exempts architectural coatings sold or manufactured for use exclusively outside of the Northern Virginia VOC Emissions Control Area. Also exempts architectural coatings sold or manufactured for shipment to other manufacturers for reformulation or packaging.	Broadens the exemption so that architectural coatings are exempt if they are manufactured for use exclusively outside of all three of the applicable VOC emissions control areas: the Northern Virginia, Richmond and Fredericksburg VOC Emissions Control Areas. Necessary to be consistent with the broader applicability of the regulation.
7140 C.		Provides a sell-through provision for products manufactured before the January 1, 2005 compliance date applicable to the Northern Virginia VOC Emissions Control Area.	Ties the sell-through provision to the compliance dates as they are amended in section 7210. Necessary to keep the sell-through dates consistent with the amended compliance date provisions.
7120		Provides a firm January 1,	Provides a new compliance date of January

		2005 compliance date for affected persons in the Northern Virginia VOC Emissions Control Area.	1, 2008 for affected persons in the newly applicable Richmond and Fredericksburg VOC Emissions Control Areas. Necessary to ensure that affected persons and facilities have time to comply with applicable provisions.
9 VAC 5, Chapter 40, Part II, Article 50			
Title.		“Emission Standards for Consumer Products in the Northern Virginia Volatile Organic Compound Emissions Control Area (Rule 4-50).”	Generalizes the title by removing reference to the Northern Virginia VOC Emissions Control Area. Necessary to make the title consistent with the new, broader applicability of the regulation to the Richmond and Fredericksburg VOC Emissions Control Areas.
7240 B.		Limits applicability of the regulation to sources and persons in the Northern Virginia VOC Emissions Control Area.	Broadens the applicability of the regulation so that the provisions are also applicable to sources and persons in the Richmond and Fredericksburg VOC Emissions Control Areas. Necessary to attain and maintain the ozone air quality standards in the corresponding nonattainment areas.
7250 A.		Exempts consumer products manufactured for shipment, and use outside of the Northern Virginia VOC Emissions Control Area.	Broadens the exemption so that consumer products are exempt if they are manufactured for shipment and use outside of all of the applicable VOC emissions control areas designated in 9 VAC 5-40-7240: the Northern Virginia, Richmond and Fredericksburg VOC Emissions Control Areas. Necessary to be consistent with the broader applicability of the regulation.
7250 B.		Exempts manufacturers or distributors of consumer products from the provisions of the regulation providing that they can demonstrate: (i) that the product is intended for shipment and use outside the Northern Virginia VOC Emissions Control Area, and (ii) that they have taken reasonable precautions to assure it is not distributed within the Northern Virginia VOC Emissions Control Area.	Broadens the exemption so that manufacturers and distributors are exempt only if they can demonstrate that the products are intended for shipment and use outside all of the areas designated in 9 VAC 5-40-7240 (Northern Virginia, Richmond and Fredericksburg VOC Emissions Control Areas) and have taken reasonable prudent precautions to assure it. Necessary to be consistent with the broader applicability of the regulation.
7260 C, Terms Defined.		See below.	See below.
“Enforceable sales.”		Defines the term in terms of sales within the Northern Virginia VOC Emissions	Broadens the area in which ACP enforceable sales are determined to include all of the applicable areas designated in 9 VAC 5-40-

		Control Area for the purpose of determining compliance with an enforceable Alternative Compliance Plan (ACP).	7240 (Northern Virginia, Richmond and Fredericksburg VOC Emissions Control Areas). Necessary to be consistent with the broader applicability of the regulation.
“Enforceable sales record.”		Defines the types of records that may be used to document sales of consumer products within the Northern Virginia VOC Emissions Control Area for the purpose of determining compliance with an enforceable ACP.	Broadens the area in which ACP enforceable sales records are used, to include all of the applicable areas designated in 9 VAC 5-40-7240 (Northern Virginia, Richmond and Fredericksburg VOC Emissions Control Areas). Necessary to be consistent with the broader applicability of the regulation.
“Gross sales.”		Defines the sales that represent the total sales of the ACP consumer product within Northern Virginia VOC Emissions Control Area.	Broadens the area in which total sales of the ACP product are calculated, to include all of the applicable areas designated in 9 VAC 5-40-7240 (Northern Virginia, Richmond and Fredericksburg VOC Emissions Control Areas). Necessary to be consistent with the broader applicability of the regulation.
“Gross sales”, subdivision 1.		Defines one method for determining gross sales of the ACP product by apportioning sales based upon population of the Northern Virginia VOC Emissions Control Area.	Broadens the area in which total sales of the ACP product are calculated, to include all of the applicable areas designated in 9 VAC 5-40-7240 (Northern Virginia, Richmond and Fredericksburg VOC Emissions Control Areas). Necessary to be consistent with the broader applicability of the regulation.
“One-product business.”		Defines one type of candidate for an ACP in terms of sales of a product in the Northern Virginia VOC Emissions Control Area.	Broadens the area in which sales of the ACP product are determined, to include all of the applicable areas designated in 9 VAC 5-40-7240 (Northern Virginia, Richmond and Fredericksburg VOC Emissions Control Areas). Necessary to be consistent with the broader applicability of the regulation.
7270 A.		Provides a firm January 1, 2005 compliance date for compliance with the consumer product VOC content limits in Table 4-50A for affected persons in the Northern Virginia VOC Emissions Control Area.	Ties the compliance date for the VOC content limits to the compliance dates as they are amended in section 7330 thereby provides a new compliance date of January 1, 2008 for affected persons in the newly applicable Richmond and Fredericksburg VOC Emissions Control Areas. Necessary to ensure that affected persons and facilities have time to comply with applicable provisions and to ensure consistency with other compliance dates in this Article.
7270 D.		Provides a firm delayed compliance date (January 1, 2006) with the VOC content limits in Table 4-50A for consumer products registered under FIFRA for affected persons in the	Ties the delayed compliance date for the VOC content limits for FIFRA-registered products to one-year after the compliance dates as they are amended in section 7330 and thereby provides a new compliance date of January 1, 2008 for affected persons in the newly applicable Richmond and

		Northern Virginia VOC Emissions Control Area.	Fredericksburg VOC Emissions Control Areas. Necessary to ensure that affected persons and facilities have time to comply with applicable provisions and to ensure consistency with other compliance dates in this Article.
7270 E 1.		Provides a firm compliance date of January 1, 2005 for the special requirements for charcoal lighter materials for affected persons in the Northern Virginia VOC Emissions Control Area.	Ties the compliance date for the special requirements for charcoal lighter materials to the compliance dates as they are amended in section 7330 and thereby provides a new compliance date of January 1, 2008 for affected persons in the newly applicable Richmond and Fredericksburg VOC Emissions Control Areas. Necessary to ensure that affected persons and facilities have time to comply with applicable provisions and to ensure consistency with other compliance dates in this Article.
7270 F 3.		Provides a firm compliance date of January 1, 2005 affecting the sale and manufacture of aerosol adhesive products containing methylene chloride, perchloroethylene and trichloroethylene for affected persons in the Northern Virginia VOC Emissions Control Area.	Ties the compliance date for these special requirements for aerosol adhesive products to the compliance dates as they are amended in section 7330 and thereby provides a new compliance date of January 1, 2008 for affected persons in the newly applicable Richmond and Fredericksburg VOC Emissions Control Areas. Necessary to ensure that affected persons and facilities have time to comply with applicable provisions and to ensure consistency with other compliance dates in this Article.
7270 G.		Provides a firm compliance date of January 1, 2005 for the special requirements for floor wax strippers for affected persons in the Northern Virginia VOC Emissions Control Area.	Ties the compliance date for the special requirements for floor wax strippers to the compliance dates as they are amended in section 7330 and thereby provides a new compliance date of January 1, 2008 for affected persons in the newly applicable Richmond and Fredericksburg VOC Emissions Control Areas. Necessary to ensure that affected persons and facilities have time to comply with applicable provisions and to ensure consistency with other compliance dates in this Article.
7300 D.		Provides a firm compliance date of January 1, 2005 for consumer product labeling requirements for affected persons in the Northern Virginia VOC Emissions Control Area.	Ties the compliance date for the consumer product labeling requirements to the compliance dates as they are amended in section 7330 and thereby provides a new compliance date of January 1, 2008 for affected persons in the newly applicable Richmond and Fredericksburg VOC Emissions Control Areas. Necessary to ensure that affected persons and facilities have time to comply with applicable provisions and to ensure consistency with other compliance dates in this Article.
7330		Provides a firm compliance date of January 1, 2005 for	Provides a new compliance date of January 1, 2008 for affected persons in the newly

		affected persons in the Northern Virginia VOC Emissions Control Area.	applicable Richmond and Fredericksburg VOC Emissions Control Areas. Necessary to ensure that affected persons and facilities have time to comply with applicable provisions.
7360 E 2.		Provides a reporting requirement for consumer products containing methylene chloride and perchloroethylene sold in calendar years between 2005 and 2010, inclusive.	Ties the first year of sales to be reported to compliance dates as they are amended in section 7330 and thereby provides for reporting the first year of sales for affected persons in the newly applicable Richmond and Fredericksburg VOC Emissions Control Areas that is consistent with the new compliance date for those areas (January 1, 2008). Necessary to ensure that affected persons have reporting requirements for consumer products containing methylene chloride and perchloroethylene that are consistent with applicable compliance dates.
7360 E 3.		Provides a reporting schedule for consumer products containing methylene chloride and perchloroethylene sold in calendar years between 2005 and 2010, inclusive.	Ties the reporting schedule to the compliance dates as they are amended in section 7330 and thereby provides a reporting schedule consistent with the new January 1, 2008 compliance date for affected persons in the newly applicable Richmond and Fredericksburg VOC Emissions Control Areas. Necessary to ensure that affected persons have reporting requirements for consumer products containing methylene chloride and perchloroethylene that are consistent with applicable compliance dates.
9 VAC 5, Chapter 40, Part II, Article 53			
7800 B.		Limits applicability of the regulation to sources and persons in the Northern Virginia and Richmond VOC Emissions Control Areas.	Broadens the applicability of the regulation so that the provisions are also applicable to sources in the Fredericksburg, Hampton Roads and Western VOC Emissions Control Areas. Necessary to attain and maintain the ozone air quality standards in the corresponding nonattainment areas.
7800 D.		Exempts small facilities (those with a potential to emit less than 100 tons of VOC per year) from the lithographic printing VOC emission standards in the Richmond VOC Emissions Control Area.	Exempts facilities with a potential to emit of 100 tons per year or less in <u>all</u> VOC emission control areas other than the Northern Virginia VOC Emissions Control Area. Necessary to add small facility exemptions for facilities in the recently promulgated Western VOC Emissions Control Area, in the new Fredericksburg VOC Emissions Control Area, and in the existing Hampton Roads VOC Emissions Control Area.
7880 B.		Provides a compliance date two years after April 1, 1996 for all affected facilities (which are limited to facilities in the Northern Virginia and Richmond VOC Emissions Control	Changes the compliance date to a firm date in the past (April 1, 1998) and specifies the areas in which the April 1, 1998 compliance date was applicable (the Northern Virginia and Richmond VOC Emissions Control Areas). Necessary to ensure that newly affected facilities in other VOC emissions

		Areas).	control areas have time to comply with the provisions of this Article.
	7880 C.	None.	Provides for a firm compliance date (to be filled in later based upon the effective date of this amendment) for all newly affected facilities in VOC emission control areas other than the Northern Virginia and Richmond VOC Emissions Control Areas.

Periodic review

Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than four years after the proposed regulation is expected to be effective.

The Department will initiate a review and re-evaluation of the regulation to determine if it should be continued, amended, or terminated within four years after its effective date.

The specific and measurable goals the proposed regulation amendments are intended to achieve are as follows:

1. To protect public health and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth.
2. To ensure that owners comply with air pollution emission limits and control technology requirements in order to control levels of volatile organic compound emissions being emitted into the ambient air.
3. To prohibit emissions which would contribute to nonattainment of the national air quality standards or interference with maintenance of the standards.

Clarity

Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

The Department, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

TEMPLATES\PROPOSED\TH02
REG\DEV\D04-04TP